UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/239,948	01/29/99	YAMAZAKI S	0756-1930

MMC2/0705
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2010 CORPORATE RIDGE
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EXAMINER	
MUNSON, G	
ART UNIT	PAPER NUMBER
2811	

DATE MAILED: 07/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
239,948	S. YAMAZAKI ET AL
Examiner	**Group Art Unit**
G. MUNSON	2811

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to ~~communication(s) filed on~~ withdrawal from issue, dated 6 June 2001.

☒ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-10, 17-154 is/are pending in the application.

Of the above claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 1-10, 20-24, 26, 27, 30, 33-35, 37, 39, 42-44, 46, 48, 51-53, 55, 57, 60, 61, etc. is/are allowed.

☒ Claim(s) 17-19, 25, 28, 29, 31, 32, 36, 38, 40, 41, 45, 47, 49, 50, 54, 56, 58, 59, etc. is/are rejected.

☒ Claim(s) 116, 117, 121, 123, 125 is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

This application has been withdrawn from issue, paper No. 15, dated 6 June 2001, in view of Komori et al, which was cited by applicants and discussed in the interview of 19 April 2001, with E. Robinson for applicants.

The process terminology (claims 67, 68, 71, 75, 140) is considered only in terms of a necessary resultant structure from the process. The process itself is not a issue. The device claims are *not* limited to the recited process. See MPEP 2113; *In re Brown*, 173 USPQ 685 (CCPA 1972); *In re Fitzgerald*, 205 USPQ 594 (CCPA 1980); *In re Marosi*, 218 USPQ 289, 292-293 (CCPA 1983); *In re Thorpe*, 227 USPQ 964 (CAFC 1985).

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 17-19, 25, 28, 29, 31, 32, 36, 38, 40, 41, 45, 47, 49, 50, 54, 56, 58, 59, 62, 66-68, 71, 75, 103, 104, 107, 111, 112, 128, 131, 134, 137, 140 and 152 are rejected under 35 U.S.C. 102 as unpatentable as shown by Komori et al, cited by applicants. See Figures 5, 6, 25, 26. The "first" impurity region reads on a region 12 between two MISFETs with a floating gate. Region 755 in Figure 9 of this application corresponds to region 12 in Komori et al (Figure 6).

Claims 76, 77, 80, 84-86, 89, 93-95, 98, 102, 143, 146 and 149 are rejected over Komori et al, as in the above rejection, further considered together with Chou et al *of record*. Short channel lengths are well known in the art as applicants would agree and as shown by Chou et al (column 2, lines 45-46) and, for MISFETs as in Komori et al, it would have been obvious to use a channel length within the range suggested by Chou et al, in order to increase integration density.

Claims 1-10, 20-24, 26, 27, 30, 33-35, 37, 39, 42-44, 46, 48, 51-53, 55, 57, 60, 61, 63-65, 69, 70, 72-74, 78, 79,81-83, 87, 88, 90-92, 96, 97, 99-101, 105, 106, 108-110, 113-115, 118-120, 122, 124, 126, 127, 129, 130, 132, 133, 135, 136, 138, 139, 141, 142, 144, 145, 147, 148, 150, 151,

153 and 154 are allowed over the art of record. Claims 116, 117, 121, 123 and 125 are objected to as dependent upon a rejected claim but would be allowable if each were put in completed form as independent claims, including all limitations of claims 17, 116; 18, 117; 25, 121; 28, 123; 112, 125.

This action is **FINAL**.

This action is a **final rejection** and is intended to close the prosecution of this application. Applicant's reply under 37 CFR 1.113 to this action is limited either to an appeal to the Board of Patent Appeals and Interferences or to an amendment complying with the requirements set forth below.

If applicant should desire to appeal any rejection made by the examiner, a Notice of Appeal must be filed within the period for reply identifying the rejected claim or claims appealed. The Notice of Appeal must be accompanied by the required appeal fee of appropriate amount.

If applicant should desire to file an amendment, entry of a proposed amendment after final rejection cannot be made as a matter of right unless it merely cancels claims or complies with a formal requirement made earlier. Amendments touching the merits of the application which otherwise might not be proper may be admitted upon a showing a good and sufficient reasons why they are necessary and why they were not presented earlier.

A reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The filing , whichever is longer, of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a

Notice of Appeal has not been filed properly within the period for reply, or any extension of this period obtained under either 37 CFR 1.136(a) or (b), the application will become abandoned.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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06/29/01

Gene M. Munson

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EXAMINER
GROUP ART UNIT 2811